

GUIDELINES FOR PRIVATE SECTOR PARTICIPATION IN PORTS THROUGH JOINT VENTURES AND FOREIGN COLLABORATIONS

1. PREAMBLE

1. An estimated 424 million tonnes (MT) Port capacity is required by the end of 9th Five Year Plan period (2002). Against this, the capacity of the existing ports is 215MT. Some capacity yielding schemes carried over from the 8th Plan are under implementation, raising the capacity to 252 MT. This leaves a gap of 172 MT. It is now proposed to implement new Schemes in Major Ports for addition of 122 MT capacity requiring an estimated investment of Rs. 16,000 crores. Capacity addition of about 50 MT is proposed through development of minor ports and building captive port facilities by the user industries.
 2. Out of Rs. 16,000 crores required for expansion of major ports, a sum of Rs. 8000 crores is likely to become available from Public Funds such as Government Budgetary Support (Rs. 2000 crores), Internal Resources of Ports (about Rs. 5000 crores) and borrowings by the Port Trusts to the extent of about Rs. 1000 crores. To cover the shortfall, Ports have been thrown open for Private Sector Participation, with the Guidelines issued on 26.10.96.
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2. It is now proposed to expand/modify the guidelines to permit formation of Joint Ventures between Major Port and Foreign Port(s), between Major Port and Minor Port(s) and between Major Port and Company(ies). The measures are aimed at facilitating the Major Port Trusts to :
 - i. attract new technology;
 - ii. introduce better managerial practices;
 - iii. expedite implementation of Schemes;
 - iv. foster strategic alliance with minor ports for creation of optimal port infrastructure; and
 - v. enhance confidence of private sector in funding ports.

3. GUIDELINES FOR JOINT VENTURES

3.1 Joint Venture between a Major Port and Foreign Port(s):

a. Areas of Participation:

1. Construction of new port facilities within the existing port.
2. Improving productivity of an existing port facility by upgrading and/or improving managerial practices (entire terminal meant for a particular commodity could be given for running it as a common user facility), and/or
3. Development of a new port.
4. Any combination of (1) to (3) above.

a. Selection Procedure

1. Major Port Trust(MPT) will identify the area(s) in which Joint Venture is to be formed, or a proposal could be made by foreign port for consideration by MPT.
2. The Foreign Port(s) should have proven capability in the identified area(s).
3. Financial Participation, Revenue Sharing and the terms of participation will be negotiated.

(c) Entity for implementation

1. The Foreign Port(s) may implement the Scheme by promoting Indian Company in the form of Special Purpose Vehicle(SPV), without equity contribution from Major Port Trust; or
2. A Joint Venture Company(JVC) may be incorporated under the Indian Companies Act with equity participation from Major Port Trust. The Major Port Trust will, at all time, maintain a controlling stake in the JVC necessary for blocking a Special Resolution.

(d)Form of Contribution by Major Ports

1. Financial
2. Making available port assets at agreed terms.
3. Agreeing to provide services such as experts, water front, pilotage, conservancy, and safety, in lieu of agreed terms and return over the period of collaboration.
4. Any combination of (1) to (3) above.

(e) Form and Period of Collaboration:

1. Period will be upto 30 years.
2. Form of collaboration will be on B.O.T. basis. Upon expiry of the period, the port related assets will revert back to the Major Port Trust in accordance with conditions of Agreement.

(f) Other conditions:

1. The Joint Venture arrangements can be finalised without tender.
2. The Joint Venture will require approval from Central Government.

Definition of Foreign Port

For the purpose of the guidelines contained in sub-para 3.1, a Foreign Port means a Public owned Port located outside India and does not include a Port owned exclusively by a Private Company.

3.2 Joint Venture between a Major Port Trust and Minor Port(s):

a. Areas of cooperation

The Scheme will relate to improvements in the existing minor port(s) resulting in strategic alliance between Major Port Trust and Minor Port(s), for coordinated development of the Port(s), and over situation where there are constraints in economic expansion of the Major Port.

b. Procedure

1. Techno-economic feasibility will be got done by Major Port Trust. The Minor Port(s) will provide assistance and co-operation and bear upto 50% of the cost of study.
2. The Scheme will be implemented by a JVC promoted by a Major Port and Minor Port(s). Major Port Trust will, at all times, maintain at least controlling stake in the JVC necessary for blocking a Special Resolution.
3. A Company or a consortium of companies, selected on tender basis, may be inducted in the JVC.
4. The statutory clearances will be arranged by the Major Port. The cost will be added to the pre-operative expenses.
5. The terms and conditions will be negotiated between the Major Port and Minor Port(s).

a. Services to be provided by the Major Port Trust

The Major Port Trust may provide following services to JVC at agreed price:-

1. Experts on deputation basis.
2. Pilotage, Conservancy and Safety.

a. Period of collaboration and Termination

1. The period of collaboration between Major and Minor Port may be in perpetuity. In the event a company or a consortium of companies is part of such collaboration, the period of such collaboration may be upto 30 years.
2. A party may withdraw from the collaboration on mutually settled terms and conditions.

a. Form and Period of Collaboration

1. Period will be upto 30 years.
2. Form of collaboration will be on B.O.T. basis. Upon expiry of the period, the port related assets will revert back to the Major Port Trust in accordance with conditions of Agreement.

Other conditions:

1. The Joint Venture arrangement can be finalised without tender.
2. The Joint Venture will require approval from Central Government.

3.3 Joint Venture between a Major Port Trust and a Company or Consortium of Companies.

a. Situations and applicable conditions:

1. A company or consortium selected through B.O.T. bidding under the Guidelines of Private Sector Participation.

Conditions: Participation of a Major Port Trust in the scheme will be considered for improving viability of the scheme and/or to enhance confidence of the private sector.

The extent of participation by the Major Port Trust shall be specified by the Port Trust in the bidding document.

2. A Company or a Consortium of Companies selected under the scheme of Innovative/Unsolicited Proposals.

Conditions: The extent of participation by the Major Port Trust, will be on case to case basis.

3. Oil PSUs or a JVC of oil PSUs selected for oil related Port Facility as a Port Based Industry.

For this purpose, a JVC of oil PSU means a Company engaged in the business of petroleum, petroleum products including their transportation and the oil PSU or more than one oil PSUs, together, at all times, hold a minimum of 50% equity stake in the Company.

Conditions:

- i. The extent of participation by a Major Port Trust will be on case to case basis.
- ii. The Joint Venture arrangements can be finalised without tender,
- iii. The Joint Venture will require approval from Central Government.

(b) Form and Period of Collaborations:

1. Period will be upto 30 years.
2. Form of collaboration will be on B.O.T. basis. Upon expiry of the period, the port related assets will revert back to the Major Port Trust in accordance with the conditions of Agreement.

4. GENERAL CONDITIONS APPLICABLE TO GUIDELINES CONTAINED IN PARA 3 ABOVE

1. The Port Facility may, wherever necessary, include supporting infrastructure, such as Road, Railway and Civic & Urban facilities required for efficiency of the Port.

2. In the event the scheme does not take off, it will be abandoned at option of any party. The pre-operative expenses will be borne by the parties in equal proportion.
3. The Joint Venture will require approval of the Central Government.
4. The Major Port Trust will carry out an exercise to work out contingent liability imposed on it by a collaboration with a view to appreciate the financial commitment of the Major Port Trust.
5. The Private Sector Guidelines relating to the Port Based Industries shall be honoured by the Joint Venture arrangements.
6. The JV arrangements shall recognise the agreements entered into by the Major Ports and provide for suitable measures for the JV arrangements to honour the agreements.

(5) Bilateral arrangements with Foreign Governments:

In case it is considered that certain technology, expertise, managerial practices etc. are necessary to be imported from a particular country, Government to Government arrangements can be concluded without inviting the tenders. The respective Major Port Trust and the Foreign Port (a public owned foreign port or a privately owned foreign port) as selected by the Foreign Government will then enter into the arrangements between them. The form of collaboration will be on agreed terms and on B.O.T. basis for a period upto 30 years.

6. For implementation of the guidelines, Indian Port Act, 1908 and Major Port Trusts Act, 1963 are to be amended suitably.

Modifications of the guidelines on Private Sector Participation in Ports issued by Central Government on 26.10.96

1. The following is added at the end of guideline 6 (v):-

" In the event, on a cut-off date fixed by the Port Trust, more than one Port Based Industry is interested in a particular captive facility, the Major Port Trust may construct the facility and operate it exclusively for the Industries which provided funds for construction; or the Port Trust may engage a common Developer-cum-Operator for this purpose at the terms and

conditions settled with the Participating Industries. The duration of the agreement between the Port Based Industry(ies) and the Port Trust, or between Port Based Industry(ies), Port Trusts and the Common Developer- cum- Operator will be till the Industry(ies) continue to be Port Based Industry(ies). In case one or more participating Industry ceases to be Port Based Industry, the Port Trust or the Common Developer-cum-Operator will be free to serve other users after giving preference to the participating Industry(ies), which continue to be Port Based in terms of the initial definition."

2. The stipulation that "at the end of the BOT period, all assets shall revert back to the Port free of cost", wherever appearing in the guidelines of 26.10.96 be substituted by the following:-

"Upon expiry of the period, the Port related assets will revert back to the Major Port Trust in accordance with conditions of agreement."

GUIDELINES TO BE FOLLOWED BY MAJOR PORT TRUSTS FOR PRIVATE SECTOR PARTICIPATION IN THE MAJOR PORTS

1. PREAMBLE

It has been assessed that major expansion is required in the port infrastructure sector in the country in order to handle the sea borne traffic on account of increasing foreign and coastal trade. In order to mobilise substantial resources required for the purpose and in order to improve efficiency, productivity and quality of service as well as to bring in competitiveness in port services, the port sector has been thrown open to private sector participation. This is in consonance with the general policy of liberalisation/globalisation of economy of Government of India. It is expected that private sector participation would result in reducing the gestation period for setting up new facilities, help bring in the latest technology and improved management techniques.

2. AREAS OF PRIVATISATION

The following areas have been identified for participation/investment by the private sector. These are indicative in nature and individual ports can expand the scope of activities after prior consultation with Central Government :-

- a. Leasing out existing assets of the port.
- i. Construction/creation of additional assets, such as:
 - a. construction and operation of container terminals.
 - b. Construction and operation of bulk, break bulk, multipurpose and specialised cargo berths.
 - c. Warehousing , container Freight Stations, storage facilities and tank farms.
 - d. Cranage/Handling Equipment.
 - e. Setting up of captive power plants.
 - f. Dry docking and ship repair facilities.
- i. Leasing of equipment for port handling and leasing of floating crafts from the private sector.
- ii. Pilotage
- iii. Captive facilities for port based industries

Each port may identify specific projects for implementation through private sector participation.

3. LEGAL FRAME WORK

There is no legal bar to private sector participation in port facilities as per the provisions of the existing Major port Trusts Act, 1963 , as brought out below :

ACTIVITY	RELEVANT SECTION OF THE MAJOR PORT TRUST ACT, 1963
Lease of port's immovable and movable property viz. land, existing berths/super structure/equipments etc. (According to definition given in the MPT Act,1963 "Immovable property includes wharfage rights , all other rights exercisable on, over or in	Section 34(1) & Section 42(3) read with Port Regulations, if any, made under Section 34(2).

<p>respect of any Land, wharf, dock or pier).</p> <p>Construction/installation of wharf, dock, quay, stage, jetty, pier erection or mooring and reclamation of foreshore within the port limit by private parties.</p> <p>Performance of any of the services to be rendered by the ports under Section 42(i) by a private party on terms and conditions fixed with the approval of Central Govt. and recovery of charges by the private party for the service rendered by them.</p> <p>Lease , farm, sell or alienate the rights of the Board to levy rates to other party with the approval of Government.</p>	<p>Section 46(1) read with Section 34.</p> <p>Section 42(3) and Section 42(4).</p> <p>Section 57</p>
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4. REGULATORY FRAMEWORK

The Port will continue to maintain its regulatory role under Major Port Trusts Act, 1963. However, for purpose of fixing and revising port tariffs, an independent Tariff Regulatory Authority will be set up. The tariff so fixed would be a ceiling and both the private entrepreneurs and the port would be free to charge less than such notified tariff. Till such a Regulatory Authority is set up, the present procedure, namely, that of Ports fixing the tariffs with the approval of Central Government will continue.

The Port should ensure that private investment does not result in the creation of private monopolies, and that private facilities are available to all users on equal and competitive terms. However, in the case of berths constructed or taken on lease by private entrepreneurs, they would be permitted to give priority berthing to their own ships and they would service other ships on a first come first served basis.

The private entrepreneurs will be obliged to protect the national interests like national security whenever necessary and required, and also honour priority

berthing orders of Central government in this regard. The private entrepreneurs will also abide by the various statutory requirements on the protection of the environment, anti-pollution measures, safety, conservancy, etc. and also abide by the directives issued by the Government/Port in this regard from time to time.

The Ports will with the approval of the Central Government take steps to frame regulations under relevant sections of Major Port Trust Act consistent with these guidelines to enable sector participation in Port Sector.

Till such regulations are framed, cases will continue to be governed by these guidelines.

5. FEASIBILITY REPORT

In the case of identified projects for private sector participation, the Ports may prepare feasibility reports either through their inhouse expertise or by engaging competent consultants after following the normal procedure of tendering/short listing. Approval of the Ministry of Surface Transport to undertake the feasibility study will be taken wherever necessary.

Tenders will be invited for the project based on the Feasibility Report. The cost of preparation of the Feasibility Report would be recovered from the successful tenderer.

Projects to be executed through private sector participation need not be posed for approval of the investment to EFC/PIB. Even feasibility report for such projects need not go for clearance of Committee of PIB, since the cost of feasibility reports is ultimately to be recovered from the successful tenderer.

In the case where captive facilities are desired feasibility reports may be conducted by the entrepreneur/PSU desirous of constructing the facility. However, the feasibility report would be seen/scrutinised by the Port to see whether it meets the Port's approval.

(6) GUIDELINES ON PRIVATISATION

(i) Leasing out existing assets of the Port.

As far as leasing out the existing facilities to the private sector is concerned, such proposals should be normally considered only if such leasing will result in additional investment and augmentation/upgradation of the existing facilities/equipment and in increased traffic throughput/profitability/improvement in quality of service/better productivity. The proposals will be considered on a case to case basis on merits, subject to the following:-

- a. The need will be assessed by the Port Trust Board.
- b. Open tenders will be issued for leasing of existing assets to the private sector.
- c. The period of lease will be decided upon by the respective Port Trust in each case, with the maximum period not exceeding 30 years. At the end of the lease period the assets will revert back to the Port free of cost including equipment and augmented portion of assets, if any.
- d. The lessee will undertake to keep the property of the Port leased to him in good condition and return it to the Port at the end of the lease period in good condition subject to fair wear and tear.
- e. Bids will be invited based on two-cover system consisting of technical and financial bids. Financial bids of only those bidders will be opened who have been technically qualified.
- f. The bidders will be asked to indicate in their financial bids (i) an upfront fee for the lease; (ii) royalty per tonne of the cargo to be handled; (iii) the minimum cargo which they will be willing to guarantee; (iv) the lease rent per unit area; and (v) any other financial parameter to be specified depending upon the facility to be leased.
- g. Comparative financial evaluation of offers received from bidders who have been technically qualified will be based on the concept of maximum realization to the Port on Net Present Value basis calculated by using discounting rate as periodically fixed by the Government. Royalty for the purpose of analysis will be based on the minimum traffic which the entrepreneur guarantees.

- other financial parameter to be specified depending upon the facility to be created.
- h. Comparative financial evaluation of offers received from bidders who have been technically qualified will be based on the concept of maximum realization to the Port on Net Present Value basis calculated by using discounting rate as periodically fixed by the Government. Royalty for the purpose of analysis will be based on the minimum traffic which the entrepreneur guarantees.
 - i. It will be ensured by Port that the private entrepreneur puts up equipment using modern technology and in new condition.

(4) Cranage/Handling Equipment

CONDITIONS

- a. The need for providing cranage/handling equipment by the private sector on an existing berth will be assessed by the Port.
- b. Open tenders will be issued for private sector participation on B.O.T. basis.
- c. Bids will be invited based on two-cover system consisting of technical and financial bids. Financial bids of only those bidders will be opened who have been technically qualified.
- d. The financial evaluation will be done on the basis of maximum realization to the Port. The bidders will be asked to indicate in their financial bid (i) an upfront fee for the licence; (ii) royalty per Tonne of cargo to be handled; and (iii) the minimum cargo handling which the entrepreneur is willing to guarantee, or pay for.

There may not be any requirement to give any land on lease. If there is requirement for land for parking the equipment or for maintenance workshop etc., the financial bid should also contain the lease rent the bidder is willing to pay.

- e. The period of licence shall be fixed by the Port Trust in each case keeping in view the useful life of the equipment. At the end of the licence period, the assets will revert to Port Trust free of cost.
- f. The private entrepreneur will be required to install equipment using modern technology and in new condition.
- g. The financial bids will be calculated on the basis of NPV of the returns to the Port, using a discount rate fixed periodically by the Government.

(5) Setting up of Captive Power Plants.

CONDITIONS

(a) The need for the project will be assessed by the Port.

(b) Guidelines of Ministry of Power and other authorities like Central Electricity Authority/State Electricity Board etc. have to be followed and clearances if any, obtained.

- a. Open tenders will be invited with the stipulation that modern machinery/technology will be installed and in new condition.
- b. Bids will be invited based on two-cover system consisting of technical and financial bids. Financial bids of only those bidders will be opened who have been technically qualified.
- c. The private sector participation would be on BOT basis with a licence period to be decided by the Port Trust in each case with a maximum period not exceeding 30 years (including construction period) after which the facility will revert back to Port free of cost.
- d. The tariff for the electricity sold to the Port would be fixed by the Port Trust in terms of the tender. It should in any case not be more than the State Electricity Board tariff applicable to the Port.
- e. The Port may charge an upfront fee and lease rent for the land for the Captive Power Plant at market rates. The basis of financial evaluation will be the lowest tariff quoted for sale of electricity to the Port.

- f. Environmental clearance and other statutory clearances will be obtained by the Port Trust.
- g. The electricity requirement of the Port should be fully met and thereafter the entrepreneur may be permitted to sell its surplus power.
- h. Specified level of supply of power to the Port will be maintained by the BOT developer, failing which penalties should be imposed.

(6) Dry docking and ship repair facilities.

The basic principles will be the same as per Models (ii)(1), (ii)(2) and (ii)(3) above. However:

- a. Financial evaluation will be based upon:

(i) an upfront fee.

- i. the minimum guaranteed amount which the entrepreneur undertakes to pay per annum
- ii. the lease rent per unit area for the land/waterfront.

- a. The financial evaluation will be based on the concept of maximum realization to the Port, using NPV analysis.

ii. Leasing of equipment/floating crafts from the private sector.

These will be lease contracts, and evaluation would be on the basis of least cost to the Port. The Ports will have to ensure leasing of modern equipment/craft and in new condition. The equipment/craft can be taken on dry or wet lease. This can be combined with maintenance contract if require. If dry lease is resorted to, training of port personnel, if require, may also be included as part of the lease.

(iv) Pilotage

- a. The need will be assessed by the Port Trust Board, on the basis of existing floating crafts/pilots.
- b. Tenders with eligibility for only Indian Nationals will be floated in a two cover procedure.
- c. The period of contract will be decided by the Port Trust Board.
- d. Subject to being technically qualified/short listed by the Tender Evaluation Committee, the bidders will be financially evaluated on the basis of least cost to the Port.

(v) Captive facilities for Port based industries.

Cases where 100% captive facilities (land/waterfront) including captive oil jetties platforms or SBMs are sought by Port based industries, including Central/State PSUs, may be considered, if they do not conflict with the Master Plan of the Port. Such cases may be considered, without recourse to a tender, provided such industries are port specific and are approved by the concerned administrative Ministries, and the industry is willing to pay the maximum realisation which the port may determine taking into account all relevant factors. For this purpose, a port based industry will be one which requires 100% captive berths/back up area for the purposes of import of raw material and/or export of finished products and/or transportation of raw materials/finished products. General guidelines of BOT wherever applicable will be applied to cases of captive facilities.

(7) GENERAL TENDER CONDITIONS AND PROCEDURE

Private participation will be on the basis of open competitive bidding.

The tenders would be based on two cover system consisting of technical and price bids. After the issue of tender document, the port may arrange one or more pre-bid conferences for clarifications, if necessary.

The tender document will not give any kind of guarantee for financial returns to the entrepreneur.

The tender document should provide that port property, if any, being transferred to the entrepreneur, will be kept insured at the cost of the private entrepreneur. The private entrepreneur would not be permitted to transfer any asset by way of sub-lease, sale, sub-contract or any other method without the previous approval of the Port. The investors will not be allowed to abandon the services abruptly or dispose off land, machinery and other assets or to convert them partly or fully into non-port use.

All the provisions of the Major Port Trusts Act, 1963, Bye-Laws, Rules and Regulations made thereunder, any administrative or other directions given under the said Act, or the Scale of Rates or a statement of conditions prescribed under the said Act, the Customs Act, and all other statutory enactments in relation to the Port including labour laws shall be fully observed and complied with by the Licensee, and the Port shall be kept indemnified harmless from all claims or demands in this behalf, including any claims from labour.

The projects to be implemented through private sector should be given as wide a publicity as possible through advertisement in the national dailies. A copy of such advertisements in respect of major projects may also be sent to foreign Embassies/Consulates in India and may be given publicity in International journals.

The Tariff Regulatory Authority to be set up may fix a ceiling tariff and leave the private entrepreneur free to charge upto the ceiling at the rates to be notified by the entrepreneur. If the Tariff Regulatory Authority is satisfied, a suitable periodic increase(s) in tariff may be permitted on justified grounds. At the time of revision of tariff, again the revised tariff would only be a ceiling, with the Port and the entrepreneur having the freedom to charge below that tariff.

Environment clearance and other statutory clearances for privatisation projects would be obtained by the Port Trust or entrepreneur depending on the project and requirement.

Where Central/state Public Sector Undertakings are Port based industries and wish to create port facilities for their own captive use, they may be treated under the guidelines for port based industries. Other Central/State PSUs who wish to create port facilities as a common user facility and not for their own captive use need to come through the tendering route at par with private entrepreneur. However, Public Sector oil units would be treated as being port specific for the purpose of allowing them captive facilities and captive oil jetties/SBMs without recourse to the tender procedure.

Approval of the Central Government would be taken wherever necessary under Major Port Trusts Act, 1963.

(8) FOREIGN INVESTORS

Foreign investors can be considered for private sector projects if they have the necessary FIPB/Competent Authority clearances and have been registered as a company under the Indian Companies Act, or have the FIPB/ Competent Authority clearance and propose to be registered as a Company under the Indian Companies Act.

(9) PORT LABOUR

Before tendering out for private sector participation an existing port facility, ports should examine

- a. the labour likely to be rendered surplus
- b. possibility of redeploying and retraining such labour
- c. after the above exercises, the port should identify the labour which has to be necessarily taken over with the facility and clearly bring it out in the tender document so that the intending tenderers are aware of the liability.
- d. No retrenchment should be done without the concurrence of Labour and only in accordance with Industrial Disputes Act/relevant labour laws. However, voluntary retirement should be encouraged.
- e. The lessee would be bound by all the labour laws of the country.
- f. Conditions of service of transferred labour if any would not be inferior to what they enjoyed before.

(10) GUIDELINES ON LEASE OF LAND

The guidelines on private sector participation and lease of land issued vide No.PD/11013/3/89-Pvt dated 12.4.1993, No.PT-17011/55/87-PT dated 1.4.1995 and vide No.PT-17011/55/87-PT dated 25.1.1996, to the extent they may be inconsistent with these guidelines, hereby stand superseded.

MINISTRY OF SURFACE TRANSPORT

(PORTS WING)

REF: S.O. No.(E) DATED 9TH JULY, 1997

GUIDELINES FOR ENVIRONMENT CLEARANCES

The following guidelines shall be followed by the Empowered Committee for Environmental Clearance(ECEC) in the Ministry of Surface Transport.

1. PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR PORT PROJECTS

1.1(a) Any agency desiring to undertake any new project or the expansion or modernisation of any existing project including reclamation and facilities for handling petroleum products as specified in Annexure III of the G.O.I. Notification S.O.494(E) dated 9.7.97 within the existing port limits in existing ports shall submit an application to the Secretary, Ministry of Surface Transport, New Delhi. These guidelines will apply to all port projects within existing port limits within existing ports. These will not be applicable to CRZ-I(i).

1.1(b) The Application shall be made in the proforma specified given as Annex.I of these guidelines. The Application Form shall be accompanied by a project report which shall, interalia, include detailed Questionnaire, Environmental Impact Assessment Report & Environment Management Plan, Risk Analysis Study & Disaster Management Plan wherever applicable prepared in accordance with the guidelines issued by the Central Government in Ministry of Surface Transport from time to time.

Cases rejected due to submission of insufficient or inadequate data and plans may be reviewed as and when submitted with complete data and plans. Submission of incomplete data or plans for the second time would itself be sufficient reason for rejecting the case summarily.

1.2. the proposal shall be considered by the Empowered Committee which may seek clarification ask for presentation before it. The application in respect of ports other than Major Ports shall be submitted through the State Government, Dept. of Environment (DOE), who will forward the proposal to the MOST with its comments. The State DOE shall specifically certify that the proposal is not violative of the Coastal Zone Management Plan (CZMP) of State as approved by the Govt. of India, MOE&F and that the Project site doesn't fall under the area designated as CRZ-I(i). Before the proposal is put up before the Empowered Committee the comments from experts may be contained by the Ministry, if necessary. MOST may maintain a panel of such Experts from time to time for consultation if found necessary.

1.3. The Experts on the panel may be from institutions of repute like NIO, Goa, NEERI, Nagpur, or an Expert in any of the following disciplines drawn from academic, professional institutes or other sources:

- i. Eco-System Management
- ii. Air/Water Pollution Control
- iii. Water Resource Management
- iv. Flora/Fauna Conservation and Management
- v. Project Appraisal
- vi. Ecology
- vii. Subject Area Specialist.

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1.4. The Empowered Committee may on the basis of detailed EIA/Rapid EIA (if necessary) or other documents as the case may be, Risk Analysis Study, Environment Management Plan & Disaster Management Plan, views of experts, if any, & presentation by the promoter(s) come to a final conclusion to give/withhold environment clearance.

1. Clearances/NOCs

Before according environmental clearance for expansion/modernisation of the existing ports and harbours, including fishing harbours, the Empowered Committee may ascertain that the project proponents have already obtained any requisite statutory clearances, NOCs, including those from local bodies/development authorities, authority to give forestry and wildlife clearance, Chief Inspectorate of Explosives, Chief Inspector of

Dock Safety, State Pollution Control Board (SPCB)/Central Pollution Control Board (CPCB), Oil Safety Directorate, Ministry of Petroleum, etc. may be necessary.

2. Conformity to Provisions of Existing Regulations

It is to be ensured that none of the activities planned by the project proponents during the investigations/construction/operational phase of the project violates the provisions of the CRZ Notification, 1991; EIA Notification, 1994; Manufacture, Storage and Import of Hazardous Chemical Rules, 1989; the Forest (Conservation) Act, 1980; The Wildlife (Protection) Act, 1972; Environment (Protection) Act, 1986; and their subsequent amendments and other relevant Acts/Rules issued by the Central/State Government.

3. Disaster Management Plan

- i. Disaster Management Plan should be prepared on the basis of Risk analysis considering worst case disaster scenario with respect to specific cases such as oil/chemical spillage, fire, explosions, sabotage, floods etc.
- ii. An emergency response system should be developed in cooperation with local fire, police and medical services. Regular exercise should be carried out to test the preparedness of the system.
- iii. Necessary leakage detection devices with early warning systems must be provided at strategic locations
- iv. Necessary equipment to control oil spillage must be provided. For any major spillage accident, help of India coast Guard can be taken for which requisite agreement/financial commitments, if necessary, should be made with Indian Coast Guard.
- v. Standby Diesel Generator sets must be provided.

5. Apart from examination of the detailed information furnished by the project proponents in the Environment Impact Assessment Report, the following issues should be specially examined/kept in view.

1. General

(i) All the construction, design/drawings should have approval of the competent authorities and copies of these drawings alongwith EIA report, if any, will be kept with the Authority granting environmental clearance to preclude the possibility of unauthorised alternations/illegal construction.

- ii. Adequate provision for infrastructural facilities such as water supply, fuel, sanitation must be made for construction labour/workers during the construction work to avoid damage to the environment.
- iii. Green Buffer Zones including mangroves planting, wherever possible, should be encouraged in and around the port areas.
- iv. An environmental cell should be made operational within the port area with adequate facilities/equipment/mobile van/boat for collection and analysis of air, water solid waste samples. Immediate corrective measures should be taken if level of any constituent is higher than the prescribed limits.
- v. Arrangement for independent inspection during construction phase would be made to ensure that the environmental stipulations are being scrupulously followed by the project proponents. For such inspections, held of IITs or reputed institutes/engineering colleges can be taken. Every six months, copies of periodic reports should be submitted to the Authority granting environmental clearance.
- vi. The scope of the project after obtaining environmental clearance will not be changed by the project proponents. Fresh environmental clearance would be required if there is any change in the scope of work.
- vii. Use of corals/coral sands for construction work will not be permitted. Ground water will not be drawn from CRZ for construction work.
- viii. The funds earmarked for environment protection should be kept in separate account and should not be diverted for any other purpose.

2. Dredging and Reclamation

- i. Dredging and reclamation operations should be, undertaken only where it can be conclusively proved that these are required for operation purposes related to the activities permissible under Coastal Regulation Zone Notification. These operations, wherever necessary, should be undertaken in consultation with reputed institutes such as Central Water & Power Research Institute, Pune, National Institute of Oceanography, Goa which in turn should ensure that environmentally safe technologies/practices are adopted to minimise adverse environmental impacts.
- ii. Best practicable technology and operating methods should be used for dredging/reclamation to minimise adverse environmental impact.

- i. Disposal of dredged material should be on the basis of proper scientific/modelling studies at designated sites and during time interval so that there are no damages to surface, ground water quality and marine productivity. Dumping of dredged material on coast should not be permitted in case it is likely to cause adverse impact on marine ecology.
- ii. Disposal sites should be so chosen that dumping should not cause interference with the natural drainage.
- iii. During dredging, construction and maintenance stages, water quality parameters should be inspected at different levels and periodic records maintained. Tests should be carried out to measure water quality parameters such as turbidity, dissolved oxygen, ammonia, nitrogen and other nutrients so as to ensure that these are maintained within the prescribed limits.
- iv. Screening of the pollutants in the harbour waters should be undertaken and periodical reports and water quality parameters should be forwarded to the concerned State Pollution Control Board/Committee at least once in six months.
- v. Temporary bunds should be constructed to contain surface run-off from the land sites. Collected run-off should be passed through retention ponds to collect suspended solids before discharge.

2. Pollution Aspects

- (i) It should be ensured that proper treatment facilities are available and the quality of treated effluents, emissions and solid wastes conform to the standards laid down by the Centre/State Pollution Control Boards/Pollution Committees.
 - ii. To prevent discharge of sewage, oily wastes and other liquid wastes into marine environment, adequate system for collection, treatment and disposal of liquid wastes including shoreline interceptor for receiving liquid wastes from the shoreline installations and special connections to receive wastes from ships must be provided.
 - iii. It should be ensured that effluents/wastes from ships/barges are not discharged into sea, in accordance with national/international laws.
 - iv. Some special arrangements wherever necessary for dusty cargo can be made to avoid pollution.
 - v. Burning of wastes will not be permitted.
 - vi. Adequate noise control measures must be taken to maintain levels within prescribed limits in the work places as well as port areas to avoid adverse effects on the workers as well as marine life.

- vii. Blasting during construction work should be avoided as far as possible to mitigate adverse affects on marine life. If blasting is absolutely essential, it will be carried out only with the prior permission of the State Pollution Control board/Pollution Control board/Pollution Committee/Chief Inspectorate of Explosives/Chief Inspector of Dock Safety. Details of blasting operations, if any, to be undertaken should be specified in EIA report along with an analysis of related environmental aspects.
- viii. Solid wastes including construction wastes should be properly disposed. Dumping of wastes in the foreshore or in the sea will not be permitted.

5.4 Monitoring

The Regional Offices of Ministry of Environment & Forests in their respective regions shall monitor the progress of implementation of conditions of Environmental Clearance accorded by Ministry of Surface Transport. A copy of environment clearance will be sent to Ministry of Environment & Forests for onward transmission to the concerned Regional Officer.

ANNEXTURE I

APPLICATION FORM

1.(a) Name and Address of the Promoter :

b. Title/description & Location of the Project :

- i. Title/description:
- ii. Location(Major/Minor/Captive/Private/

Greenfield Port) :

(iii) District, Tehsil, State :

(iv) Latitude/Longitude :

- i. Nearest Airport/Railway Station

(Distance thereof) :

b. Alternate sites examined and the reasons for selecting the proposed site :

c. Does the site conform to stipulated land use as per local land use

Plan (if any) :

2. Objectives of the Project:

3. Land Requirement:

(i) Government Land: ----- acres

(ii) Agriculture Land: ----- acres

(iii) Forest Land and Density of Vegetation: ----- acres

(iv) Other(specify): ----- acres

Total : ----- acres

(b)(i) Land use in the Catchment of the proposed port project/within 10 kms. radius of the proposed port project site :

ii. Topography of the area :

(c) Pollution sources existing within 10 Km. Radius of the proposed project site and their impact on the quality of air, water & land :

(d) Distance of the nearest National Park/Sanctuary Biosphere/Mangrove/Monuments/Heritage Site/Reserve Forest :

(e) Green belt Plan :

f. Compensatory afforestation Plan :

2. Climate and Air Quality :

a. Windrose at site:

- b. Max./Min./mean annual temperature:
- c. Frequency of inversion:
- d. Frequency of cyclones/tornadoes/cloud burst;
- e. Ambient air quality data:
- f. Nature & concentration of emission of SPM, Gas(CO, CO₂, Nox CH_n etc.) from the Project:

2. Water Balance:

- a. Water balance at site :
- b. Lean season water availability :
- c. Source to be tapped with competing sources(Rive, Lake, Ground, Public Supply):
- d. Water Quality:
- e. Changes observed in quality and quantity of ground water in the last 15 years and present charging and extraction details:

(f) (i) Quantum of waste water to be released with treatment details :

- ii. Quantum of quality of water in the receiving body before and after disposal of solid waste:
- iii. Quantum of waste water to be released on land and type of land:

(g) Details of reservoir water quality with necessary Catchment Treatment Plan:

2. Solid Wastes:

- a. nature and quantity of solid wastes generated :
- b. solid Waste Disposal Method :

2. Noise and Vibrations:

- a. Source and noise and vibrations:
- b. Ambient noise level :
- c. Noise and Vibration control measures proposed:
- d. Subsidence problem if any with control measures:

8. Power requirement indicating source of supply. Complete environmental details to be furnished separately, if captive power unit proposed :

9. Peak labour force to be deployed giving details of :

- Endemic health problems in the area due to waste water/air/soil borne

Diseases :

- Health care system existing and proposed:

10.(a) Number of village and population to be displaced :

(b) Rehabilitation Master Plan :

11. Risk Assessment Report and Disaster Management Plan:

12.(a) Environmental Impact Assessment) Report prepared as per

(b) Environment Management Plan :) guidelines.

(c) Detailed Feasibility Report:)

(d) Duly filled in Questionnaire :) (Annexed)

13. Details of Environmental Management Cell :

I hereby give an undertaking that the data and information given above are true to the best of my knowledge and belief and I am aware that if any part of the data/information submitted is found to be false or misleading at any stage, the project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.

Signature of the applicant

With name and full address

Date:

Place:

Given under the seal of

Organisation on behalf of

Whom the applicant is signing

In respect to item for which data are not required or is not available as per the declaration of project proponent, the project would be considered on that basis.

Development Wing)

Guidelines on New Research Studies on Port and Inland Water Transport Sector (December 2001)

The Research Committee of the Ministry was reconstituted under the chairmanship of Additional Secretary and Financial Adviser of the Ministry on 5.11.2001. The "**Methodology of funding of New Research Schemes**" and the "**Role of Research Committee**" were redefined in the Research Committee meeting held on 20.12.2001 which are as follows: -

1. METHODOLOGY

- i. All major ports/Govt. Ship yard/field organisations should identify problem areas for taking up new R&D Studies and after formulating the research proposals, the same should be communicated to the Ministry. In case a research institution makes a new research proposal they should approach the user organisation namely major ports/Govt. shipyards/IWT for funding, who in turn will take up the proposal to ministry's Research Committee for funding.
- ii. Funding of the project should be projected in the budget of the field organisations.
- iii. If it is a common problem pertaining to two or more Ports/Ship - yards/Field organisations, the Ministry can be asked to coordinate.

2. ROLE OF RESEARCH COMMITTEE

The Research Committee will examine the proposals received from the field organisations and recommend the schemes for funding through their budget. The field organisation have to award/execute the job, send progress reports to the Ministry and finally send the implementation report of the Recommendations of Research study.

3. Thrust Areas

A. PORT SECTOR

- i. Generation of basic data for the coastal area sub India
- ii. Erosion and siltation
- iii. Pollution control and Abatement
- iv. Designs of Coastal Structures
- v. New materials for Construction and use in Ports and Harbours
- vi. Off shore Structures including floating break waters.

B. SHIP BUILDING And SHIPPING SECTOR

- i. Energy Conservation on Boars ships
- ii. Noise and Vibration Control of ships
- iii. Development of maritime communication System
- iv. Hull Design of country boats

C. IWT Section

- i. River Engineering: Physical and mathematical modeling of River behaviour.
- ii. Hydraulic and Hydrographic data and Data base management. Computer aided base management.
- iii. Different types of berthing structures-Development of standard designs.
- iv. IWT Vessels-Design of standard vessels and performance prediction, Navigation aids.

The above thrust area can be extended to cover the changing needs of research work.